

to time, for preventing disputes, cause all the lots taken up and improved, or that shall thereafter be taken up, &c. to be regularly surveyed, substantially and fairly bounded and numbered. And all after purchasers of lots, whether before or after the passing of this Act, shall be deemed to be within the said town; provided their lots be within the outlines thereof; and shall have as good estate in their lots, as if taken up, improved, and paid for under the original laws erecting the said towns. And that all improvements of what kind soever, either wharves, houses, or other buildings, that have or shall be made out of the water, or where it usually flows, shall, as an encouragement to such improvers, be forever deemed the right, title and inheritance of such improvers, their heirs and assigns forever. 1745, ch. 9; 1836, ch. 63.

This law, it is obvious, according to the principles of justice, applicable to the subjects of which it speaks, can only be so construed as to authorize the owners of lots bounded by the tide of the basin to acquire a right to vacant land without applying to the land office, and without paying for it the stipulated price of vacant land. It operates as a legislative grant, for and in consideration of certain improvements, from which material and important benefits would result to the public. And the improvements being the consideration upon the formation of which alone the State parts with its right to the soil covered by the waters of the basin; it is clear, that no right can vest under it, until the specified improvements have been completed; for, if they should be left in an unfinished condition, it would amount to an abandonment of the right to acquire a title in that manner. *Giraud's Lessee v. Hughes*, 1 G. & J. 249. This, however, is * a mode of acquisition of which none can take advantage but natural **467** persons who hold lots bounded by the tide-water of the basin; in whom and their heirs the acquisition is to vest as an inheritance. It is obvious, therefore, that the city itself could acquire no right of property in this way; and besides, a wharf, one of the kinds of improvements mentioned as an example, being an extension of fast land into the water, the city never had any such land upon or from which any improvements of the sort could be made or extended. 1836, ch. 63. But even natural persons can avail themselves of this privilege only in so far as the acquisition may be made by improving their own lots in such a manner as not to extend them in front of, or between the navigation of the basin and any public street or other lot belonging to an individual. *Hale de Portibus*, 81; *Smith v. Hollingsworth*, ante, 381. As, for example, John Smith, under this law, could not have acquired a right to any land, covered by the waters of the basin, by improving upon, or filling it up in any other than a south direction; because, in doing so, he would have crossed, or cut off navigation from the next adjoining street or lot. *Harrison v. Sterett*, 4 H. &